

**Executive Summary – Enforcement Matter – Case No. 41728**

**City of Lott**

**RN103119046**

**Docket No. 2011-0833-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Lott, located on Avenue "G" between Bone Branch and the Southern Pacific Railroad,  
Lott, Falls County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 16, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,579

**Amount Deferred for Expedited Settlement:** \$1,915

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$7,664

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41728**

**City of Lott**

**RN103119046**

**Docket No. 2011-0833-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 2, 2011

**Date(s) of NOE(s):** May 13, 2011

***Violation Information***

1. Failed to comply with permitted effluent limitations for pH and biochemical oxygen demand (5-day) [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010017001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3].

2. Failed to submit monitoring results at the intervals specified in the permit. Specifically, a pH maximum value was not included in the discharge monitoring report ("DMR") submitted for the period ending July 31, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0010017001, Monitoring and Reporting Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

A revised DMR for July 2010 that included missing pH data, was received by the TCEQ on May 25, 2011.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, develop procedures to ensure that future DMRs include all required data;
- b. Within 45 days, submit written certification of compliance with Ordering Provision a.; and
- c. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010017001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

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***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Annita Tindle, Mayor, City of Lott, P.O. Box 398, Lott, Texas 76656

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	16-May-2011	<b>Screening</b>	26-May-2011	<b>EPA Due</b>	
	<b>PCW</b>	27-May-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Lott		
<b>Reg. Ent. Ref. No.</b>	RN103119046		
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41728	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-0833-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jeremy Escobar
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,100
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	225.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$6,975
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Notes: Enhancement for 35 months of self-reported effluent violations, two NOV's with same/similar violations, and two prior orders with denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$825  
Approx. Cost of Compliance \$10,275  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$10,075
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-4.9%	<b>Adjustment</b>	-\$496
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction so that monthly self-reported effluent violations do not overly impact the penalty amount and to prevent double enhancement for self-reported violations.

<b>Final Penalty Amount</b>	\$9,579
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$9,579
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,915
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$7,664
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Screening Date 26-May-2011

Docket No. 2011-0833-MWD-E

PCW

Respondent City of Lott

Policy Revision 2 (September 2002)

Case ID No. 41728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103119046

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	37	185%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 225%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for 35 months of self-reported effluent violations, two NOVs with same/similar violations, and two prior orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 225%

Screening Date 26-May-2011

Docket No. 2011-0833-MWD-E

PCW

Respondent City of Lott

Policy Revision 2 (September 2002)

Case ID No. 41728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103119046

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010017001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description

Failed to comply with permitted effluent limitations (see attached table).

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. pH was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

212 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$808

Violation Final Penalty Total \$9,270

This violation Final Assessed Penalty (adjusted for limits) \$9,270

# Economic Benefit Worksheet

Respondent City of Lott  
Case ID No. 41728  
Reg. Ent. Reference No. RN103119046  
Media Water Quality  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Mar-2010	11-Nov-2011	1.62	\$808	n/a	\$808

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. The date required is the month the first non-compliant excursion was documented and the final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$808



Screening Date 26-May-2011

Docket No. 2011-0833-MWD-E

PCW

Respondent City of Lott

Policy Revision 2 (September 2002)

Case ID No. 41728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103119046

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0010017001, Monitoring and Reporting Requirements No. 1

## Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, a pH maximum value was not included in the discharge monitoring report ("DMR") submitted for the period ending July 31, 2010.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$309

This violation Final Assessed Penalty (adjusted for limits) \$309

# Economic Benefit Worksheet

**Respondent** City of Lott  
**Case ID No.** 41728  
**Reg. Ent. Reference No.** RN103119046  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	20-Aug-2010	11-Nov-2011	1.23	\$15	n/a	\$15
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	20-Aug-2010	25-May-2011	0.76	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to submit the missing data and develop a procedure with training to ensure that all report data are submitted timely. The date required is the date the DMR data was required to be submitted. The final dates are the date the missing data was submitted and the expected date of compliance with development of a procedure and training.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$275

**TOTAL**

\$16

City of Lott  
 RN103119046; Docket 2011-0833-MWD-E;  
 TPDES Permit No. WQ0010017001

<b>Permit Limit</b>	pH (maximum)	Biochemical Oxygen Demand(5-day) (daily average concentration)
<b>Month/Year</b>	9.0 standard units	30 milligrams/Liter
March 2010	compliant	32.7
April 2010	compliant	39
May 2010	compliant	34.8
June 2010	compliant	32.6
July 2010	9.3	compliant
January 2011	compliant	32.2
February 2011	compliant	36



## Compliance History

Customer/Respondent/Owner-Operator:	CN601119191	City of Lott	Classification: AVERAGE	Rating: 1.88
Regulated	RN103119046	CITY OF LOTT	Classification: AVERAGE	Site Rating: 4.02
ID Number(s):	WASTEWATER	PERMIT		WQ0010017001
	WASTEWATER	EPA ID		TX0053376
	WASTEWATER LICENSING	LICENSE		WQ0010017001
Location:	LOCATED ON AVENUE "G" BETWEEN BONE BRANCH AND THE SOUTHERN PACIFIC RAILROAD IN LOTT, FALLS COUNTY, TEXAS			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	May 25, 2011			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	May 25, 2006 to May 25, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jeremy Escobar	Phone:	(361) 825-3422	

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?      Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period?      No
3. If Yes, who is the current owner/operator?      N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?      N/A
5. When did the change(s) in owner or operator occur?      N/A

(Rating Date: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 04/03/2008	ADMINORDER 2005-0838-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)	
Rqmt Prov: Self-reporting Requirements PERMIT	
Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.	
Effective Date: 08/31/2009	ADMINORDER 2009-0347-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	5/31/06	(501247)
2	6/1/06	(501248)
3	8/22/06	(523485)
4	8/22/06	(523486)
5	6/19/07	(555115)
6	3/9/07	(581499)
7	5/23/07	(581500)
8	6/28/07	(581501)
9	1/2/07	(581502)
10	2/8/07	(581503)
11	3/19/07	(608144)
12	10/8/07	(608145)
13	7/24/07	(608146)
14	10/16/07	(608147)
15	10/16/07	(608148)
16	10/16/07	(608149)
17	10/8/07	(608150)
18	9/28/07	(608151)
19	10/8/07	(608152)
20	10/8/07	(608153)
21	11/15/07	(621728)
22	12/20/07	(621729)
23	2/14/08	(673679)
24	1/28/08	(673680)
25	3/20/08	(691930)
26	4/22/08	(691931)
27	9/23/08	(712941)
28	6/20/08	(712942)
29	7/22/08	(712943)
30	9/23/08	(712944)
31	9/23/08	(712945)
32	2/20/09	(722992)
33	10/17/08	(729149)
34	11/18/08	(729150)
35	12/23/08	(729151)
36	4/30/09	(741941)
37	6/10/09	(747194)
38	2/19/09	(752322)
39	1/23/09	(752323)
40	3/19/09	(769971)
41	4/22/09	(769972)
42	5/28/09	(769973)
43	2/22/10	(791321)
44	2/25/10	(809565)
45	6/18/09	(809566)
46	7/23/09	(809567)
47	8/20/09	(809568)
48	9/24/09	(809569)

49	10/22/09	(809570)
50	11/20/09	(809571)
51	12/28/09	(809572)
52	1/26/10	(809573)
53	3/23/10	(832616)
54	4/23/10	(832617)
55	6/24/10	(845204)
56	6/24/10	(846814)
57	9/22/10	(867505)
58	9/1/10	(874512)
59	9/29/10	(874513)
60	1/19/11	(878774)
61	11/1/10	(888560)
62	12/27/10	(896905)
63	1/10/11	(902849)
64	1/26/11	(902850)
65	5/13/11	(915102)
66	3/3/11	(916916)
67	3/24/11	(916917)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	06/30/2006	(523486)	CN601119191
Self	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006	(608148)	CN601119191
Self	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2006	(581502)	CN601119191
Self	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2006	(581503)	CN601119191
Self	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2007	(581499)	CN601119191
Self	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2007	(608144)	CN601119191
Self	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007	(608145)	CN601119191
Self	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2007	(581500)	CN601119191

Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2007 (581501)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2007 (608146)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2008 (673679)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/29/2008 (691930)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2008 (691931)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2008 (712941)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2008 (712942)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2008 (712943)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2008 (712944)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/31/2008 (712945)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2008 (729150)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2008 (729151)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		



Description: Failure to meet the limit for one or more permit parameter  
Date 12/22/2008 (706841) CN601119191  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limit/Monitor Req., No. 1 Pg. 2 PERMIT  
Description: Failure to discharge effluent in compliance with permitted effluent limitations.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements, No. 1 Pg. 9 PERMIT  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(9)  
Monitor/Report Reqs., No. 7(c) Pg. 6 PERMIT  
Description: Failure to report 40% noncompliances to the TCEQ within the required notification period.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements, No. 1 Pg. 9 PERMIT  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Monitor/Report Reqs, No.5 Pg. 5 PERMIT  
Description: Failure by the permittee to ensure that automatic flow measuring devices are accurately calibrated on an annual basis.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Operational Requirements, No. 1 Pg. 9 PERMIT  
Description: Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Monitor/Report Reqs, No. 3(c) Pg. 5 PERMIT  
Description: Failure by the permittee to maintain adequate records of monitoring activities.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements, Pg. 9 No. 1 PERMIT  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements, No. 1 Pg. 9 PERMIT  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 312, SubChapter G 312.145  
Operational Requirements, No. 2 Pg. 9 PERMIT  
Description: Failure by the permittee to comply with all provisions of 30 TAC 312 concerning sewage sludge use and disposal.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)(B)  
Sludge Provisions, Section III. G. Pg 25 PERMIT  
Description: Failure by permittee to submit an Annual Sludge Report to the TCEQ by September 1 of each year.

Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2009 (752322)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2009 (769971)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2009 (769972)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2009 (769973)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2009 (809568)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/31/2009 (809569)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2010 (809565)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2010 (832617)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2010 (845204)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2010 (846814)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2010 (867505)	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2010	CN601119191	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter

Dat 01/14/2011 (878774) CN601119191  
Self NO Classificatio Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Requirements No. 1, Pg.2 PERMIT  
Description: Failure by the permittee to comply with the permitted effluent limitations for  
Biological Oxygen Demand (BOD) .  
Self NO Classificatio Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Sludge Provisions, Section II. F Pg.22 PERMIT  
Description: Failure to submit an Annual Sludge Report to the TCEQ by September 1 of each year.

Dat 01/31/2011 (916916) CN601119191  
Self YES Classificatio Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter  
Dat 02/28/2011 (916917) CN601119191  
Self YES Classificatio Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF LOTT  
RN103119046**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-0833-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Lott ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located on Avenue "G" between Bone Branch and the Southern Pacific Railroad in Lott, Falls County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 18, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nine Thousand Five Hundred Seventy-Nine Dollars (\$9,579) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Six Hundred Sixty-Four Dollars (\$7,664) of the administrative penalty and One Thousand Nine Hundred Fifteen Dollars (\$1,915) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that a revised discharge monitoring report ("DMR") for July 2010 that included missing pH data, was received by the TCEQ on May 25, 2011.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010017001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on May 2, 2011 and shown in the table below:

<b>Permit Limit</b>	pH (maximum)	Biochemical Oxygen Demand(5-day) (daily average concentration)
<b>Month/Year</b>	9.0 standard units	30 milligrams/Liter
March 2010	compliant	32.7
April 2010	compliant	39
May 2010	compliant	34.8
June 2010	compliant	32.6
July 2010	9.3	compliant
January 2011	compliant	32.2
February 2011	compliant	36

2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0010017001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on May 2, 2011. Specifically, a pH maximum value was not included in the DMR submitted for the period ending July 31, 2010.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Lott, Docket No. 2011-0833-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, develop procedures to ensure that future DMRs include all required data, in accordance with TPDES Permit No. WQ0010017001, Monitoring and Reporting Requirements No. 1;
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., in accordance with Ordering Provision No. 2.c. below; and
- c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010017001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God,



war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

10/6/11  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

8-4-11  
\_\_\_\_\_  
Date

ANNITA TINDLE  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Lott

MAYOR  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.